

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF OKLAHOMA

UNITED STATES OF AMERICA,)
Plaintiff,)
v.) Case No. CR-17-239-D
JERRY DRAKE VARNELL,)
Defendant.)

PRETRIAL CONFERENCE MEMORANDUM

On February 7, 2019, the Court held a pretrial conference pursuant to FED. R. CRIM. P. 17.1. The United States was represented by Matt Dillon and Mark Stoneman. Defendant was represented by his counsel of record, Marna Franklin and Vicki Behenna. The following matters were discussed during the conference:

1. The trial will commence with jury selection on Tuesday, February 12, 2019, at 9:30 a.m. The parties announced that they anticipate the trial will require approximately 10 days. There may be some overlap of witnesses. The parties agreed that Defendant could adopt witnesses, as necessary.

2. There are no outstanding discovery issues that require involvement of the Court.

3. Possible stipulations, particularly as to chain of custody of physical evidence, are being discussed by counsel. The United States anticipates significantly fewer witnesses in its case-in-chief if stipulations are reached. The Court encouraged the parties to reach reasonable stipulations.

4. The United States advised the Court that it may file a motion to reconsider the Court's Order on the United States' Amended Motion for Protective Order Pertaining to Testimony of FBI Undercover Employee at Trial.

5. The United States will be presenting video evidence of recordings involving Defendant and the FBI undercover employee leading up to the date of the alleged offenses; scene videos, depicting various camera angles, of the placement of the device in downtown Oklahoma City; and Defendant's interview by law enforcement personnel.

6. The Court will not require the parties to submit a summary of the Superseding Indictment; the Court will read the Superseding Indictment to the jury.

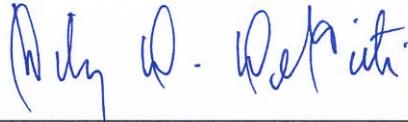
7. The United States announced a possible evidentiary issue concerning the admission of DHS and juvenile records of the CHS-1 by Defendant. Defendant does not plan on using the records unless they become relevant. The United States also expressed some concern with Defendant asking the CHS-1 questions about specific facts underlying his prior conviction. The Court cautioned the parties to ensure compliance with the Federal Rules of Evidence and this Court's guidance regarding such testimony.

8. The United States has not filed a formal FED. R. EVID. 404(b) notice regarding Defendant's felony conviction in Custer County District Court, Arapaho, Oklahoma. The Court advised the parties to approach the bench before presenting such evidence.

9. The Court indicated that it would most likely defer ruling on Defendant's pending Motion to Dismiss the Superseding Indictment for Outrageous Government Conduct until after the United States presents its case-in-chief.

10. The Court discussed with the parties the manner in which jury selection will be conducted, the anticipated daily trial schedule, and related procedural matters. No additional issues were raised by the parties.

DATED this 8th day of February 2019.



TIMOTHY D. DEGIUSTI
UNITED STATES DISTRICT JUDGE